

VIRGINIA REAL ESTATE APPRAISER BOARD
REGULATORY REVIEW COMMITTEE MINUTES

DRAFT

The Real Estate Appraiser Board (REAB) Regulatory Review Committee (Committee) met on Thursday, October 14, 2010, at the Department of Professional & Occupational Regulation in Richmond.

Committee Members present: H. Glenn James, Chair
 Betsy Critzer
 Richard Pruitt
 Sandra Johnson

Board Members present: Ryan Myers
 John C. Harry, III
 Michael Miller

Staff Members present: Gordon Dixon, Director
 Mark Courtney, LRD Deputy Director
 Christine Martine, Executive Director
 Kevin Hoeft, Board Administrator

Chairman James called the meeting to order at 2:10 p.m.

The agenda was approved unanimously.

Summary of Regulatory Review Process

Board staff Kevin Hoeft and Christine Martine explained the Standard Regulatory Review Process that the Board will be undertaking. The process consists of three stages: Stage 1 - Notice of Intended Regulatory Action (NOIRA); Stage 2 - Proposed Regulation; and Stage 3 - Final Regulation. This process usually takes between 18-36 months to complete. Mark Courtney later directed the members' attention to the General Policy section of Governor McDonnell's Executive Order 14, *Development and Review of Regulations Proposed by State Agencies*, which states in part, "All regulatory activity should be undertaken with the least possible intrusion in the lives of the citizens of the Commonwealth consistent with public health, safety and welfare. Proposed and final regulations shall reflect the Governor's initiative that state government operate more efficiently and effectively."

Board staff informed the Committee that that both the Appraisal Subcommittee (ASC) and the Office of the Attorney General (OAG)

advised that the Board should not attempt to incorporate the appraisal-related changes within the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (HR 4173 - signed into law on July 21, 2010) in the standard regulatory review process. Instead, these changes should be incorporated in the Board's Regulations through an Exempt Regulatory Review action after the Board receives official guidance from the ASC and after any required legislation, if necessary, is passed by the General Assembly.

AARO Conference Update

Board Member Michael Miller then provided the Committee with a summary of what he learned from attending the Fall Joint Conference of the Association of Appraiser Regulatory Officials (AARO), the Appraisal Foundation and the Appraisal Subcommittee in Washington, D.C., from October 1 through October 5.

Mr. Miller pointed out that the following appraisal-related provisions of Dodd-Frank will likely affect the Board's licensure program: 1) The appraisal of high-risk mortgages; 2) Appraisal independence requirements; 3) Additional responsibilities for the ASC; 4) Appraisal Management Companies (AMCs) will be licensed and regulated by the Board; 5) Qualifications for Trainee Appraisers and Supervisory Appraisers; 6) Establishment of an appraiser complaint national hotline; 7) National quality control standards for Automated Valuation Models (AVMs) will be implemented through federal regulations; 8) Broker Price Opinions (BPOs) will be limited for use in securing some residential mortgage loans; 9) The Real Estate Settlement Procedures Act of 1974 (RESPA) is amended to require AMCs to disclose fees paid to appraisers and to disclose AMC administrative fees; and 10) The Government Accountability Office (GAO) will conduct studies on: a) the effectiveness and impact of various appraisal methods, models and channels; b) the HVCC; and c) the ASC.

Mr. Miller also commended the "Voluntary Disciplinary Action Matrix," developed by the Consistent Enforcement Task Force of The Appraisal Foundation Board of Trustees.

Public Comment

Pat Turner, former Board Member and Virginia Certified Residential Appraiser, informed the Committee of the following items: 1) He believes the \$250,000 "de minimus" level for which an appraisal is required may be lowered due to the reduced value of homes; 2) The Board's regulations can be more stringent than the federal requirements that will be issued from the ASC pursuant to the enactment of Dodd-Frank; 3) Dodd-Frank amended RESPA to require AMCs to disclose fees paid to appraisers; and 4) *Harold H. Huggins Realty, Inc., et al v. FNC, Inc.* in the United States Court of

Appeals for the Fifth Circuit addresses the issue of electronic portal companies extracting information from electronic appraisal reports.

Woody Fincham, Virginia Certified Residential Appraiser, made the following points: 1) The disclosure of appraisal and AMC fees in the appraisal report is a good requirement; 2) Appraisers are suffering and some are leaving the professions due, in part, to the growing influence of AMCs; and 3) The Board's Regulatory Review process takes too long - the Board should be more proactive in making regulatory changes.

Review of Board's Regulations

The Committee then discussed possible regulatory changes. Mr. James indicated he reviewed the appraiser regulations in Virginia's contiguous states, and he considers the North Carolina Appraisal Board's (NCAB) Regulations to be the best. Based on actual cases that have come before the Board, Mr. James recommends the Committee review the following regulations: 1) 18 VAC 130-20-20 - Requirement for Registration of Appraisal Business - the role of appraisal businesses should be clarified; 2) 18 VAC 130-20-190 - Standards of Conduct for Certified Appraiser Education Instructors; 3) 18 VAC 130-20-60 - Qualifications for Licensure as an Appraiser Trainee - Unlicensed trainees, and the appraisers who use them, are unaccountable; and 4) 18 VAC 130-20-30.8 - General Qualifications for Licensure (Experience) - the Board will accept appraisal reports completed as far back as 1989 to meet its experience requirement. The NCAB will not accept appraisal reports that are more than five years old to meet its experience requirement.

Ms. Critzer referred to Certified Instructor Don Clark's comments at a past Board meeting regarding on-line appraisal education. Mr. Clark was concerned that appraiser license and license renewal applicants are completing online appraisal education courses in significantly less time than it takes for those who attend classroom courses to complete. The Committee discussed whether they could limit the number or percentage of pre-license or continuing education online hours that an applicant or licensee could complete. Kevin Hoeft explained that this may be prohibited by the ASC or Virginia law and he would check with ASC and OAG staff to determine this.

Adjourn

There being no further business, Ms. Critzer made a motion to adjourn the meeting, seconded by Mr. Harry, and the Committee adjourned the meeting unanimously at 3:57 p.m.